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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/023,416 02/13/98 OHMI

T 980150

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QM02/0630

EXAMINER
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BASTIANELLI, J

ART UNIT	PAPER NUMBER
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3754

DATE MAILED:  
06/30/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/023,416**

Applicant(s)  
**Ohmi et al.**

Examiner  
**John Bastianelli**

Group Art Unit  
**3754**



☒ Responsive to communication(s) filed on Apr 27, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-6 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-6 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art supplied by the applicant in view of DuRoss et al. and further in view of Brzezicki et al. The applicant's prior art (Figs. 8 and 9) discloses a similar fluid control apparatus which comprises a plurality of fluid controllers which use adjacent 2-port valves connected to each other with tubing to control the fluid flow with an inlet port (Main Gas) and an outlet port (P/C) with inlet-outlet subopenings having a port separate from the inlet port and said outlet port (Purge Gas, Vent, Vac). The applicant's prior art lacks using 3-port valves and valve mounts with internal passages which does not use tubing. The prior art illustrated in Figs. 1 and 2 of DuRoss teaches the equivalence of using a 3-port valve in place of a 2-port valve (col. 2, lines 12-23) to eliminate dead-legs (col. 1, lines 39-42) of chemical delivery in manifolds. In Fig. 2, a 3-port valve 20' is used in place of 2-port valve 20 in Fig. 1 to eliminate dead-legs. DuRoss also discloses an inlet port always in communication with an outlet port with an inlet-outlet subopening (Fig 8B). It would have been obvious at the time the invention was made to a person of ordinary skill in the art to use a 3-port valve in place of any 2-port valve in any fluid circuit, as desired, in order to

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eliminate dead-legs as taught by DuRoss. Brzezicki discloses fluid controllers C mounted on blocks B with internal passageways (Fig 8) which do not use tubing. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to use the valve blocks with internal passageways of Brzezicki in place of the tubing of the prior art tubing in order to reduce the size of the apparatus as taught by Brzezicki (col 1, lines 24-41).

***Response to Arguments***

3. Applicant's arguments filed April 27, 2000 have been fully considered but they are not persuasive. Regarding applicant's argument that the proposed combination does not arrive at the applicant's claimed invention, applicant's prior art discloses the invention of the applicant with the exception of the valves being 3-way valves instead of two way valves (compare Fig. 2 to Fig. 9). Applicant has made a 2-way valve with downstream passages into a 3-way valve with the downstream passage being valved. DuRoss teaches that it is beneficial to make the downstream passage of the 2-way valve come out of the 3-way valve instead to help eliminate dead-legs of process gas delivery (col. 2, lines 11-27). Also, applicant's prior art uses tubing instead of blocks to valve the process gas. Brzezicki discloses internal passages in modular manifold blocks which is well known in the fluid valving art to use in order to more easily interchange parts.

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*Conclusion*

4. This is a CPA of applicant's earlier Application No. 09/023,416. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Bastianelli whose telephone number is (703) 305-0058.

*JB*

JB

June 28, 2000

*Kevin Shaver*  
KEVIN SHAVER  
SUPERVISORY PATENT EXAMINER  
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6/29/00